IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY EIGHTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE Mr. JUSTICE C.V.RAMULU

WRIT PETITION Nos.1635, 3845, 12402 & 24173 of 1996 and 20304 of 1999

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WRIT PETITION No.1635 of 1996

Between:

1 G.V.V.R.Ramanujam S/o Gopalakrishna Murthy
KBN College, Vijayawada
2 K. Hanumantha Rao
KBN College, Vijayawada
3 A. Padmanabham S/o Sundara Raghavan
S.R.V.B.S.J.B. Maharani College, Peddapuram,
E.G. District.
4 M. Raghupathi Rao S/o Radhakrishna Rao
Andhra Loyola College, Vijayawada

..... PETITIONERS

AND

1 Govt. of A.P. Dept. of Education, A.P., Hyderbad
2 Indian Audit and Accounts Dept., O/o Accountant General (A&E)
A.P. Hyderabad-22
3 M/s. KBN College rep. by Secretary & Correspondent, Vijayawada
4 S.R.V.B.S.J.B. Maharani College, Peddapuram

rep. by Secretary & Correspondent
Peddapuram, E.G. District.
5 M/s. Andhra Loyola College rep. by Correspondent,

Vijayawada

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the

circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus or any other appropriate Writ or Order or direction declaring the action of respondents in denying the pensionery benefits under A.P. Revised Pension rules of 1980 to the Petitioners herein who Voluntary retired from service after 1-11-1992 as arbitrary, illegal, unjust and as unsustainable and issue a consequential direction directing the respondents herein to grant and disburse the pensionary benefits to petitioners herein as per A.P. Revised Pension Rules of 1980 w.e.f. the date of retirement with all consequential benefits and to grant 18% p.a. interest on the arrears of pensionery benefits payable to Petitioners w.e.f. the date of retirement

Counsel for the Petitioners: Mr.S.SATYANARAYANA PRASAD

Counsel for the Respondents: GP FOR HIGHER EDUCATION

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WRIT PETITION No. 3845 of 1996

Between:

Bhattiprolu Venkata Sayanarayana Sarma,

S/o B. Kutumba Rao
R/o Tenali, Guntur District.

..... PETITIONER

AND

1 Government of Andhra Pradesh, rep. by Secretary
Department of Education, Andhra Pradesh, Hyderabad
2 Indian & Audit Accounts Department, Office of

Accountant General (A & E)
Andhra Pradesh, Hyderabad
3 M/s. V.S.R. and N.V.R. College rep. by Correspondent,

Tenali

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus or any other appropriate Writ or Order or direction declaring the action of respondents in denying the pensionary benefits under the A.P. Pension Rules of 1980 to petitioner herein who Voluntary retired from service after 1-11-1992 as arbitrary, illegal, unjust and as unsustainable and issue a consequential direction directing the respondents herein to grant and disburse the pensionary benefits to the petitioner herein as per A.P. Revised Pension Rules of 1980 w.e.f. the date of retirement with all consequential benefits and to grant 18% p.a. interest on the arrears of pensionary benefits payable to the Petitioner w.e.f. the date of retirement.

Counsel for the Petitioner: Mr. S.SATYANARAYANA PRASAD

Counsel for the Respondents: GP FOR EDUCATION

WRIT PETITION No. 12402 of 1996

Between:

K.Shankar Rao S/o.late K.Rajalingam
A.V.V.Junior College, Warangal, Warangal Dist

..... PETITIONER

AND

1 The State of Andhra Pradesh, rep.by its Secretary
Education (Higher) Department, A.P.Secretariat Buildings, Hyderabad
2 The Director of Intermediate Education Andhra Pradesh, Hyderabad
3 The Regional Joint Director of Higher Education, Warangal
4 The Indian Audit and Accounts Department,

Office of the Accountant General (A&E)
Andhra Pradesh, Hyderbad, rep.by its Accounts Officer,
5 The Principal A.V.V.Junior College, Warangal
6 The A.V.V.Junior College, Warangal rep.by its Secretary - Correspondent

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction especially in the nature of a writ of mandamus directing the respondents to revise and re-fix the pension of the petitioner in terms of para 2(b) part-A of the rules contained in GO.Ms.No.2, Dt.05/01/1994 by declaring the letter No.Pen.8/II/95-96/1038, Dt.11/09/1995 of the Accounts Officer, Indian Audit and Accounts Department, Office of the A.G (A&E), AP., Hyderabad as being arbitrary, illegal, unconstitutional null and void and accord all consequential benefits as regards arrears etc.

Counsel for the Petitioner: Mr.Y.VENKAT SASTRY

Counsel for the Respondents: GP FOR SCHOOL EDUCATION

WRIT PETITION No. 24173 of 1996

Between:

R.S.Mallikarjunam S/o. R.Venkata Subbaiah
Jawahar Bharathi College. R/o. Kavali, Nellore Dist.

..... PETITIONER

AND

1 Government of Andhra Pradesh, Rep by its Secretary
Dept of Education Hyderabad.
2 Indian Audit and Accounts Dept
C/o Office of Accountant General, A.P Hyderabad.
3 Jawahar Bharathi, Kavali, Rep by its Correspondent
Kavali , Nellore Dist.
4 D.K.Govt College Rep by its Principal
Nellore.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to May be pleased to issue a writ of Mandamus or any other appropriate writ or order or direction declaring the action of respondents in denying the Pensionary benefits under A.P. Pension Rules of 1980 to the Petitioner herein who Voluntarily retired from service before 1-11-1992 as arbitrary, illegal, unjust and unsustainable and issue a consequential direction directing the respondents herein grant and disburse the pensionary benefits to the petitioner herein as per A.P. Revised Pension Rules of 1980 with effect from the date of his retirement with all consequential benefits and to grant 18%p.a. interest on the arrears of Pensionary benefits payable to petitioner with effect from the date of retirement.

Counsel for the Petitioner: Mr. S.SATYANARAYANA PRASAD

Counsel for the Respondents: GP FOR EDUCATION

WRIT PETITION No. 20304 of 1999

Between:

Smt. Gunmala Somani S/o Ramchander Somani
Agarwal Junior College for Boys, Charkaman,
Hyderabad

..... PETITIONER

AND

1 State of A.P. rep. by Secretary
Education Dept., Secretariat,
Hyderabad
2 The Commissioner & Director of Intermediate Education A.P., Hyderabad
3 Indian Audit Accounts Dept., rep. by Accountant General, A.P. Hyderabad
4 Agarwal Junior College for Boys rep. by Secretary
Charkaman, Hyderabad

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a appropriate writ, order or direction particularly one in the nture of Writ by declaring the G.O.Ms.No.2 Education (C.E.III) Dept. dt: 5-1-1994 is also applicable to the persons who retired voluntarily. 2. declare the action of the 3rd respondent in not granting the Revised Pension as contemplated under G.O.Ms.No.2 Education (C.E.III) Dept., dt: 5-1-94 to the petitioner as wholly illegal, arbitrary and unconstitutional. 3. and consequently direct the respondents to revise and pay the difference of pension as per G.O.Ms.No.2 Education (C.E..III) Dept. dt: 5-1-1994 with interest @ 24% and also continue pay the same.

Counsel for the Petitioner: Mr.PRATAP NARAYAN SANGHI

Counsel for Respondents 1 to 3: G.P. FOR HIGHER EDUCATION

Counsel for the Respondent No.4: MR.AKHTER AHMED JABRI

The Court made the following :

COMMON JUDGMENT:

A common question of law arises for consideration in all these writ petitions; therefore, they are being disposed of by this common Judgment.

Petitioners are all Lecturers retired from various private Aided Degree Colleges of East Godavari, Krishna and Guntur districts as noted in the statement infra.

S.No.	Name	W.P.No.	College	Date of Birth	Date of joining service	Date of retirement
1	GVVR Ramanujam	1635/96	Principal, KBN College, Vijayawada	2.11.1938	27.8.1960	31.5.1991
2	K.Hanumantha Rao	1635/96	Head of the Department of Physics, KBN College, Vijayawada	1.7.1936	22.7.1966	31.5.1992

3	A.Padmanabham	1635/96	Lecturer in Maths, SRVBSJB Maharani College, Peddapuram, E.G.District	1.4.1941	17.8.1962	15.9.1992
4	M. Raghupathi Rao	1635/96	Senior Assistant, Andhra Loyola College, Vijayawada	8.1.1937		31.12.1988
5	B.V.S.Sarma	3845/96	Lecturer in Mathematics, VSR & NVR College,. Tenali	14.10.1935		8.1.1993
6	K. Shankar Rao	12402/96	Lecturer in Economics, A.V.V.Junior College, Warangal	.1930	.1951	18.10.1983
6	R.S.Mallikarjunam	24173/96	Lecturer in Maths,Jawahar Bharathi Junior College, Kavali	6.11.1938		31.10.1991
7	Smt.Gunmala Somani	20304/99	Lecturer in Physics, St.Joseph College for Women		7.7.1964	27.6.1987

Their grievance is that they have been sanctioned pension in accordance with the Pension Rules of 1961 i.e. maximum of Rs.1,000/- per month. As on the date of their retirement from service, the Andhra Pradesh Revised Pension Rules of 1980 as applicable to Government College Lecturers were extended to the aided college staff through G.O.Ms.No.536, Education (J) Department, dated 17-6-1992, but the same is not extended to them. Joint Secretary to Government, Education Department of Government of Andhra Pradesh, Hyderabad issued a letter dated 1-7-1995 stating that the cases of ‘voluntary retirement of staff of aided Colleges like the petitioners have to be finalized in accordance with Pension Rules of 1961 only.

It is the case of the petitioners that the Andhra Pradesh Education Act,1982 governs the functioning of aided educational institutions and teaching and non-teaching staff working in those institutions. The Amending Act 17 of 1993 introduced Section 78-A in the said Act. Further, the State Government issued G.O.Ms.No.2, dated 5-1-1994 framing the Andhra Pradesh Aided Degree, Oriental and Junior Colleges Staff Pension Rules,1993. These Rules provide for payment of pension of the teaching and non-teaching staff of affiliated aided colleges in the State as per the Andhra Pradesh Revised Pension Rules of 1980. All the petitioners opted for voluntary retirement after completion of minimum qualifying service between 31-12-1988 and

8-1-1993. However, the respondents did not extend the pensionary benefits to them as required under the Andhra Pradesh Revised Pension Rules of 1980. The denial of pensionary benefits to the petitioners as per the Andhra Pradesh Revised Pension Rules of 1980 is arbitrary, illegal, discriminatory and in violative of Articles 14 and 16 of the Constitution of India. The said facility/benefit has been extended vide G.O.Ms.No.536, dated 17-6-1982 even to the teachers working in aided colleges. Teaching/non-teaching staff of the aided colleges in the State must be treated on par with those Government employees opted for voluntary retirement for the purpose of payment of pension under Andhra Pradesh Revised Pension Rules of 1980. In fact, the respondents are extending the benefit of Andhra Pradesh Revised Pension Rules of 1980 to those who retired before or after 1-11-1992 and similarly placed with that of the petitioners, but they are not extending the same to the petitioners on the short ground that the words 'voluntary retirement' were not mentioned in Part-A of G.O.Ms.No.2, dated 5-1-1994. In fact, the respondents also extended benefits under Andhra Pradesh Revised Pension Rules of 1980 for all those employees, who voluntarily retired after 13-7-1993 and while granting such benefit to such employees, denying the said benefits to those who voluntarily retired before and after crucial date i.e. 1-11-1992 is arbitrary and illegal.

A detailed counter affidavit has been filed on behalf of the respondents denying the allegations made by the petitioners. It is the case of the respondents that in letter No.1249/CE.III-1/94-3 Education, dated 1-7-1995, the Government had clarified as under:

> "I am directed to invite attention to your letter 3rd cited and to state that cases of voluntary retirements from 01-01-1992 to 13-7-1993 (i.e. the date of effect of Act No.17/93) may be finalized under Andhra Pradesh L.R.Rs.1961 without applying the maximum ceiling of Rs.1,000/- per month. However, restricting the commutation to 1/3 of the Rs.1,000/- besides revising the family pension at the rate of Revised Pension Rules,1980 in respect of Service Pensioners alive as on 1-11-1993. It may also be clarified that the cases of the voluntary retirement and retirement in invalid pension and arising on or after 13-7-1993 may be finalized restricting the service and emoluments upto the age of 58 years only……".

According to the above letter, the revision of pension is only applicable for the staff of private aided Degree, Oriental and Junior Colleges, who retired after 13-7-1993. Therefore, the petitioners are not eligible for revision of pension. However, the pension may be revised without applying the maximum ceiling of Rs.1,000/- per

month restricting the commutation to 1/3rd of Rs.1,000/- besides revising family pension at the rate of Revised Pension Rules,1980 in respect of service pensioners alive as on 1-11-1992. The cases of the voluntary retirement and retirement on invalid pension etc., arising on or after 13-7-1993 may be finalized restricting the service and emoluments upto the age of 58 years only. It is also stated in the counter that there is a provision to exercise an option to retire from service voluntarily on completion of 20 years of qualifying service as per G.O.Ms.No.536, dated 17-6-1982. The Rules framed under Section 78-B of the Andhra Pradesh Education Act and the Rules issued in G.O.Ms.No.2, dated 5-1-1994 deal with different classes of employees, who worked in private aided Degree, Oriental and Junior colleges. Part-A of the Rules deal with the employees, who have retired on attaining the age of superannuation either before or after the commencement of A.P. Act 17 of 1993. Part B of the Rules deal with the employees, who have retired on attaining the age of 60 years prior to commencement of A.P. Act 17 of 1993. Similarly, Part-C deals with the employees, who have continued in service beyond 58 years, but were retired consequent on coming into force of Act 17 of 1993. While in cases falling under Parts A and C, Andhra Pradesh Revised Pension Rules of 1980 were made applicable, in cases falling under Part B, A.P. Liberalized Pension Rules,1961 were made applicable. The reason is that by the time the Act 17 of 1993 came into force, such of the employees, who fall in the ambit of Part B already stood retired. However, with a view to provide some relief to such of the persons, who stood retired before commencement of the Act 17 of 1993, but were alive, were extended pensionary benefits in a limited way. Petitioners took voluntary retirement much before the Act came into force. The Rules framed under G.O.Ms.No.2, dated 5-1-1994 were given effect from 1-11-1992. Therefore, the petitioners cannot compare themselves with that of the category of employees, who had retired subsequent to coming into force of the Act. Under the Act and Rules the employees, who retired prior to commencement of the Act were treated on separate basis and the A.P. Liberalized Pension Rules,1961 were made applicable to them subject, however, the condition that the ceiling limit under the said Rules was not applied. Inasmuch as they took voluntary retirement prior to the commencement of Act 17 of 1993, their case is similar and akin to those who retired prior to coming into force of the Act. Therefore, this position was clarified by the Government in their Memo dated 1-7-1995. The petitioners cannot compare themselves with those employees, who retired subsequent to the coming into force of the Act. Under the said Act and the

Rules made thereudner, advantageous scheme was framed in view of curtailment of age of retirement from 60 years to 58 years. The calculation of the pension in respect of petitioners is valid and is in accordance with law. It is also stated that the A.P. Education Act,1982 was amended by the State Government making provision that '(a) notwithstanding anything contained in any orders issued for payment of pension to the Private aided Degree and Junior Colleges staff including last grade staff before the commencement of the said Act, who retired at 58/60 years respectively are entitled to pension w.e.f 1-11-1992 in accordance with such separate rules as may be made in that behalf; (b) Members of teaching and non-teaching staff, who continue in service beyond 58 years for any reason, shall be entitled to pension w.e.f. 1-11-1992 in accordance with such separate rules as may be made in that behalf." Therefore, the writ petition is devoid of merits and liable to be dismissed.

Sri S. Satyanarayana Prasad, learned senior counsel appearing for the petitioners, contended that the respondents cannot adopt discriminative attitude in making applicability of the pensionary benefits in the Andhra Pradesh Revised Pension Rules of 1980 between a person retired before 1-11-1992 and a person retired after 1-11-1992. Once the Andhra Pradesh Revised Pension Rules, 1980 are made applicable to the teaching and non-teaching staff of the private aided schools, the respondents cannot differentiate between the persons retired before 1-11-1992 and after 1-11-1992. Further, the respondents cannot discriminate between the persons those who retired from service on attaining the age of superannuation at 58 years and those who opted for voluntary retirement on completion of 58 years. The discrimination sought to be made by the respondents is arbitrary, illegal and liable to be set aside. Learned counsel for the petitioners placed reliance upon the reported Judgment of the Apex Court in **KRISHNADEVARAYA EDUCATION TRUST v. L.A. BALAKRISHNA** wherein it was held as under:

> "All that has happened is in such of the banks where a scheme for voluntary retirement was available, certain employees retired under that scheme. Now a comprehensive Pension Scheme has been framed which came into force w.e.f. 1-11-1993 and is applicable uniformly to all bank employees, which provides for voluntary retirement as well. The applicability of these rules to those employees who have voluntarily retired w.e.f. 1-1-1986 to 31-10-1993 is raised in these matters. It is not possible for Shri V.R. Reddy, learned Senior Counsel who appears for the appellants to point out that there is any significant financial or other burden or difference so far as those who had voluntarily retired and those who had ordinarily retired. In that event, where there is no distinction, the authorities having sought to make a distinction and not applied the regulations framed subsequent to their

retirement, the High Court has given appropriate directions. We also notice that the number of employees who have retired in this manner is also very small. Therefore, we think no interference is called for in these appeals…."

The ratio laid down in the above case squarely applies to the facts of these cases. Learned counsel for the petitioners also stated that these are only the petitioners, who are left over and even otherwise, it will not cause any financial burden to the State exchequer.

The very same arguments were adopted by the other learned counsel appearing for the petitioners.

Learned Government Pleader for Higher Education contended that the law as available as on the date of retirement of the petitioners was implemented in its strict sense. Petitioners cannot have any grievance and they cannot seek fixation of pension under the law, which came into being after their retirement. Further, it is not the case of the petitioners that they have retired from service on attaining the age of superannuation at 58 years. The retirement and voluntary retirement are altogether different. Petitioners took voluntary retirement; therefore, they cannot seek the same benefit as that of the others.

This Court has given earnest consideration to the submissions made by the learned counsel on either side and gone through the material made available on record.

Before going to consider the question of law, it may be necessary to notice few relevant provisions of the Act and the Rules.

Section 78A of the A.P. Education Act reads as under:

"78-A: Age of superannuation of the staff in aided private educational institutions:-

1. Every teacher or member of non-teaching staff employed in any aided, private educational institution, not belonging to last grade service, shall retire from service on the afternoon of the last day of the month in which he attains the age of fifty eight years;

   Provided that a teacher or a member of the non-teaching staff aforesaid, who has already attained the age of fifty eight years and continuing in service on the date of commencement of the Andhra Pradesh Education (Amendment) Act,1993, shall retire on the afternoon of the last day of the month of commencement of the said Act.

2. Every member belonging to the last grade service shall retire from service on the afternoon of the last day in which he attains the age

of sixty years."

A.P. Aided Degree, Oriental and Junior College Staff Pension Rules,1993 which have come into force with effect from 1-11-1992 issued vide G.O.Ms.No.2, dated 5-1-1994 read as under:

"(1) Short title and commencement:-

i. These Rules shall be called 'the Andhra Pradesh Aided Degree, Oriental and Junior Colleges Staff Pension Rules,1993'.

ii. They shall come into force on and from 1-11-1992.

(2) These rules shall consist of three parts; Part-A in respect of teaching and non-teaching staff, who retired from service on attaining the age of 58 years and Last Grade Staff, who retired from service on attaining the age of 60 years; Part-B in respect of teaching and non-teaching staff, who retired from service on attaining the age of 60 years and Part-C in respect of teaching and non-teaching staff, who continued in service beyond 58 years and retired from service before completing the age of 60 years:-

PART-A

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a. The Andhra Pradesh Revised Pension Rules,1980 shall apply mutatis mutandis to all the teaching and non-teaching staff of private aided Degree, Oriental and Junior colleges, who retired from service on attaining the age of 58 years and the members belonging to the Last Grade Service of private Aided Degree, Oriental and Junior Colleges, who retired from service on attaining the age of 60 years before or after the commencement of the Andhra Pradesh Education (Amendment) Act,1993 and alive.

b. Refixation of Pension:- Such of the teaching and non-teaching staff of private Aided Degree, Oriental and Junior colleges, who have retired at the age of 58 years, even prior to commencement of Act No.17 of 1993 shall be eligible to claim refixation of Pension under the Rules, with effect from 1-11-1992 or the date of their retirement, whichever is later. These staff members would also be eligible for arrears of pension from 1-11-1992. However, such staff members shall not be eligible for any increased Gratuity. They shall also not be eligible from commutation on account of increase in the Pension.

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PART-B

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The Andhra Pradesh Liberalized Pension Rules,1961 shall be applicable *mutatis mutandis* to all such members of teaching and non-teaching staff of private aided Degree, Oriental and Junior Colleges, who retired from service on attaining the age of 60 years and are alive as on 1-11-

1992.

Provided that the maximum ceiling limit of pension as provided in Rule 3 of the Andhra Pradesh Liberalized Pension Rules,1961 shall not be applicable to the above staff members.

PART-C

The pension formula given in Part-A is also applicable to these teaching and non-teaching staff of private aided degree, oriental and Junior Colleges, who continued in service beyond the age of 58 years and retired from service before completing the age of 60 years after coming into force of the Andhra Pradesh Education (Amendment) Act,1993 (Act 17 of 1993) and alive. The services rendered beyond 58 years in any case shall not count as qualifying service and it shall be treated as just service, not qualifying in any manner for pensionary benefits.

3) Commencement of Qualifying Service:-

Subject to the provisions of these rules, qualifying service of the teaching and non-teaching staff of private aided degree, oriental and Junior Colleges in aided service, shall commence from the date he/she takes charge of the post to which he/she is first appointed either substantively or in an officiating or temporary capacity in an aided post. The unaided service shall not count for pension."

The amended Section 78-A of the A.P. Education Act contemplates applicability of age of superannuation of the staff in aided private educational institutions except for the last grade service as 58 years. However, if a teacher has already attained the age of 58 years and continuing in service on the date of commencement of the A.P. Act 17 of 1993 shall retire on the afternoon of the last day of the month of the commencement of the Act. A.P. Act 17 of 1993 introducing Section 78A into A.P. Education Act came into force with effect from 1-11-1992.

It is the case of the petitioners that Part A of G.O.Ms.No.2, dated 5-1-1994 is applicable to the case of the petitioners and not Part B as asserted by the respondents. Part A, as seen above, contemplates that the A.P. Revised Pension Rules,1980 shall apply *mutatis mutandis* to the teachers, who retired from service on attaining the age of 58 years. Part B contemplates applicability of A.P. Liberalized Pension Rules,1961 for those who retired from service on attaining the age of superannuation of 60 years and/or alive as on 1-11-1992. However, the maximum

ceiling limit of pension as provided under Rule 3 of the A.P. Liberalized Pension Rules,1961 was not made applicable.

Admittedly, the petitioners herein have all retired from service before 1-11-1992 except the petitioner in W.P.No.3845 of 1996. Even the question as to the applicability of the A.P. Revised Pension Rules,1980 from a particular cut off date i.e. from 1-11-1992 is proper or not is no more *res integra.* This question has been dealt with elaborately by a Division Bench of this Court in W.A.Nos.1219 of 1998 and 125 of 1999, dated 3-8-1999 wherein it was held:

> "After hearing both the counsel, we went through the impugned order and all other material placed on record. So far as the entitlement of teachers for revised pension after 1.11.1992 is concerned, there cannot be any dispute. The dispute is only with regard to the entitlement of teachers who have retired from service in between 29-10-1979 and 1-11-1992 was elaborately considered by the learned single Judge and it was rightly held that the writ petitioners are also entitled to revised pension from the respective dates of their retirement. The learned single Judge before reaching the said conclusion took into consideration that effect of the rule position under various G.Os. The order of the learned single Judge is result of proper and impartial appreciation of the G.Os that were relied upon and also the interpretation of the rule position. In our view, there is no illegality in the order passed by the learned single Judge warranting our interference."

Further, the same question was again reconsidered by another Division Bench of this Court in W.P.No.2089 of 1990 and batch and held as under:

> "**10**. Taking the history back to pension Rules of 1961 and firstly extending the same to Government Teachers, but not to the teachers of the aided institutions; but again realizing that they are equally situated and extending the same and also to the personnel who had retired before the date of extension of the said Pension Rules and again extension of the Liberalized Pension Rules,1980 to both the Government teachers and also the Teachers of the aided institutions, it is quite evident that both the Government Teachers and the Teachers of the aided institutions were treated equal and on par and as such whatever benefits, which were given to Government Teachers were extended to the Teachers of aided institutions. The aided institutions include both Schools and Colleges, but later on the colleges were sought to be taken out while Teachers of the aided institutions were given the benefits on par with those of Government Teachers. But the Government had realized its folly and had broughtforth amendment by A.P. Act 17 of 1993 inserting Section 78-B extending the benefits to the personnel of private aided colleges also and if that be so, there cannot be any further classification denying their right from their respective dates of retirement. Depriving the petitioners' right to get the said monetary benefits rights from their respective dates of retirement violates equality clause and thus arbitrary and discriminatory.

> **11.** In the circumstances, we hold that the petitioners are entitled not only computation of their pension under Revised Pension Rules,1980 from their respective dates of retirement i.e. 31-10-1985 and 31-7-1985, but also payment of monetary benefits thereto from the said dates."

In view of the above, even the teachers, who have retired between 29-10-1979 and 1-11-1992 were also extended with the benefits of the A.P. Revised Pension Rules,1980 *mutatis mutandis.*

Once this is so, the only question that remains to be considered is whether the petitioners, who took voluntary retirement before 1-11-1992, except the petitioner in W.P.No.3845 of 1996, are entitled for fixation of their pension as per the A.P. Revised Pension Rules,1980. It is an admitted fact that the persons, who retired after 1-11-1992 even voluntarily, were all extended with the benefits under the A.P. Revised Pension Rules,1980. It is also not disputed that there is a provision for grant of pension even under the A.P. Revised Pension Rules,1980. By G.O.Ms.No.536, Education (J) Department, dated 17-6-1982, the benefit of voluntary retirement was extended to the teachers working in aided Colleges also. Once a provision is available and a person seeks voluntary retirement as per law, the denial of extending the benefits of A.P. Revised Pension Rules,1980 is unreasonable. There is no rationale in denying the benefits of A.P. Revised Pension Rules,1980 to the petitioners simply because they have retired from service voluntarily. The Rules as such do not differentiate between a person retired on attaining the age of superannuation and a person retired voluntarily from service after putting in qualified service. Therefore, the contention of the learned Government Pleader that even the letter dated 1-7-1995 clarifying as to the applicability of the A.P. Liberalized Pension Rules in respect of persons retired on voluntary retirement and that cases of voluntary retirement from 1-1-1992 to 13-7-1993 (the date of coming into effect of Act 17 of 1993) may be finalized under the A.P. Liberalized Pension Rules,1961 without applying the maximum ceiling limit of Rs.1,000/- per month and further, restricting the commutation to 1/3rd of Rs.1,000/- besides revising the family pension rules,1980 in respect of service pensions alive as on 1-11-1992 and also that the cases of voluntarily retirement and retirement on invalid pension arising on or after 13-7-1993 may be finalized restricting the service and emoluments upto the age of 58 years, cannot be countenanced. The applicability of A.P. Revised Pension Rules,1980 has already been considered in the above two Judgments of the

Division Bench of this Court and they attained finality.

In view of the above, the only objection taken by the respondents that since the petitioners have retired voluntarily, they are not entitled for extending the benefits under the A.P. Revised Pension Rules,1980 is arbitrary and illegal. A.P. Revised Pension Rules,1980 do contemplate voluntary retirement apart from retirement on attaining the age of superannuation. In this case, admittedly, the petitioners applied for voluntary retirement between 31-12-1988 and 8-1-1993. Once A.P. Revised Pension Rules,1980 are made applicable *mutatis mutandis* to the teachers/Lecturers working in aided private colleges, their cases also need be considered even for extending the benefits under the A.P. Revised Pension Rules,1980 even if they retired voluntarily. A.P. Revised Pension Rules,1980 are applicable from the date of their inception i.e. from 29-10-1979 as held by this Court in W.P.No.2089 of 1990 and batch. There is no reason as to why the same ratio is not made applicable to the persons, who retired voluntarily, for the purpose of extension of the benefits under the A.P. Revised Pension Rules,1980.

For all the above reasons, the Writ Petitions are allowed and the respondents are directed to grant the benefits of A.P. Revised Pension Rules,1980 to the petitioners herein and disburse the pensionary benefits to them as per the said Rules with effect from the respective dates of their retirement with all consequential benefits, within a period of three months from the date of receipt of a copy of this order. However, if the petitioners have gained any advantage even for a short period over and above what they are entitled under the A.P. Revised Pension Rules,1980 while extending the A.P. Liberalized Pension Rules,1961 in their cases earlier, the same is liable to be deducted while working out the benefits as stated above. No order as to costs.

28-4-2005

prk

The Rule nisi has been made absolute as above.

Witness the Hon'ble Sri Justice Bilal Nazki, the Acting Chief Justice on this the Thursday, twenty-eighth day of April, Two Thousand and Five.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Secretary, Department of Education,

Government of Andhra Pradesh, Hyderabad
2 The Accounts Officer, Indian & Audit Accounts Department,

Office of the Accountant General (A&E),

Andhra Pradesh, Hyderabad
3 The Director of Intermediate Education Andhra Pradesh, Hyderabad
4 The Regional Joint Director of Higher Education, Warangal
6 The Principal A.V.V.Junior College, Warangal
6 The Secretary & Correspondent, A.V.V.Junior College, Warangal.

7 The Secretary & Correspondent, M/s. KBN College, Vijayawada
8 The Secretary & Correspondent,

S.R.V.B.S.J.B. Maharani College, Peddapuram

Peddapuram, E.G. District.
9 The Correspondent,

M/s. Andhra Loyola College, Vijayawada.

10 The Correspondent, M/s. V.S.R. and N.V.R. College, Tenali.

11 The Correspondent, Jawahar Bharathi, Kavali,
Kavali , Nellore District.
12 The Principal, D.K.Govt College, Nellore.

13 The Secretary, Agarwal Junior College for Boys,
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